



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/864,394	05/25/2001	Akinori Zaitzu	019952-160	1192

7590 01/21/2004

Platon N. Mandros
BURNS, DOANE, SWECKER & MATHIS, L.L.P.
P.O. Box 1404
Alexandria, VA 22313-1404

EXAMINER

DESANTO, MATTHEW F

ART UNIT	PAPER NUMBER
----------	--------------

3763

DATE MAILED: 01/21/2004

15

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/864,394

Applicant(s)

ZAITSU ET AL *gH*

Examiner

Matthew F DeSanto

Art Unit

3763

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 October 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-15, 17-19, 21 and 22 is/are pending in the application.
- 4a) Of the above claim(s) 1-14, 21 and 22 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 15 and 17-19 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
- a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Priority

1. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

Specification

2. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: The examiner cannot find the newly added claim language "smaller than the size of the data output in case that the past data" in the specification.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

4. Claims 15 and 19 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claims contains subject matter, which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The new matter added to the claims is "data sized smaller than the data size of output in case the past data and the currently communicated data are not identical."

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

6. Claims 15, 17-19 are rejected under 35 U.S.C. 102(e) as being anticipated by Sites et al. (USPN 6413233).

Sites et al. discloses a real-time monitoring system performing real time communication with external apparatuses, including one or more medical apparatus, and comprising a communication means, a storing means, a comparing means, displaying means, and a controlling means. (Col. 7, lines 10-51, Col. 16, lines 25-67 and entire reference).

Sites et al. discloses where the contents displayed on the displaying means are stop information, flows, alarm conditions and patient information, and where the medical apparatuses are infusion pumps. (Col. 32, lines 10-50).

7. Claims 15, 17-19 are rejected under 35 U.S.C. 102(e) as being anticipated by Kenley et al. (USPN 6146523).

Kenley et al. discloses a monitoring system comprising a communication means, a storing means, a comparing means, displaying means, and a controlling means. (Col. 7, lines 1-34, and Col. 11, lines 25-50).

8. Claims 15, 17, 19 rejected under 35 U.S.C. 102(b) as being anticipated by Kraftson et al. (USPN 6,151,851).

Kraftson et al. discloses a monitoring system comprising a communication means, a storing means, a comparing means, displaying means, and a controlling means and wherein the comparison means deals with deleting duplicate information from the storage means. (Col. 19-Col. 20 and entire reference)

9. Claims 15, 17, 19 are rejected under 35 U.S.C. 102(e) as being anticipated by Gruenwald (US Pub 2003/0046285).

Gruenwald discloses a monitoring system comprising a communication means, a storing means, a comparing means, displaying means, and a controlling means and wherein the comparison means deals with deleting duplicate information from the storage means. (Para. [0006], [0026], [0031], [0036], [0069]-[0073], and entire reference)

Claim Rejections - 35 USC § 103

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

11. Claims 15, 17-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Egger et al. (USPN 5713856) and further in view of Gruenwald as applied to claims above.

Egger et al. disclosed medical pumps having telemetry and a storage means with a CPU, but fails to include a comparison unit that functions in the same manner as the claimed invention.

Gruenwald disclosed the comparison unit, as stated in the 102 Rejection above.

At the time of the invention it would have been obvious for one of ordinary skill in the art to combine Egger et al. with Gruenwald because Gruenwald taught a more efficient method of updating and storing information within a database (page 1). In the medical art it is important to provide the medical devices with the most up to date information about the patient and procedures, thereby allowing the most complete and best medical advice to be given. Therefore, combining the references would provide the medical device of Egger et al. with a more efficient method of updating data as taught by Gruenwald and thus achieving the best medical advice as well as anticipating the claimed invention.

Response to Arguments

12. Applicant's arguments filed 10/21/03 have been fully considered but they are not persuasive.

13. The applicant argues language that is perceived to be new matter and therefore, the arguments are moot.

Conclusion


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Matthew F DeSanto whose telephone number is 1-703-305-3292. The examiner can normally be reached on Monday-Friday 9:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian Casler can be reached on 1-703-308-3552. The fax phone number for the organization where this application or proceeding is assigned is 1-703-872-9302.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 1-703-308-0858.



Matthew DeSanto
Art Unit 3763
January 12, 2004


BRIAN CASLER
SUPERVISOR
ART UNIT 3763
JAN 12 2004